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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,499	10/18/2001	William E. Bartasevich JR.	CREPP0154US	7503

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EXAMINER

MEREK, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 05/08/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary

Application No.

09/982,499

Applicant(s)

BARTASEVICH, JR. ET AL

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 1, 5, and 6, the claims specify that the force transmitting surfaces are on the walls and the bottom and the walls include the first and second pairs of walls. The drawings and the disclosure only set forth the force-transmitting surface on two of the walls. It has not been adequately disclosed that the force transmitting surfaces are between all the walls and the bottom.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 5, and 6, set forth a seamless joint between the flexible material and the walls and between the flexible material and the bottom. The flexible material as claimed is fused to the walls and the bottom. The fusing represents a joint. It is not clear what is being claimed. The joint is clearly not

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seamless. The remaining claims are included since they stem from rejected claims.

Regarding claims 1, 5, and 6, it has not been adequately disclosed that the force transmitting surfaces are between all the walls and the bottom. It is not clear if the force transmitting surfaces are required between all the walls and the bottom.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bromley (US 3,446,415). Regarding claim 1, as it is best understood, see Figs. 1-10, where the claimed structure is shown. The joint is seamless between the floor and the walls and the hinge is 102a. The hinge is a resilient and flexible material known in the art as a living hinge. The force transmitting surfaces on the walls and the bottom are seen in Figs. 5, 6, 9 and 10. 114 and 155 are on the bottom and 116 and 117 are on the walls. The force-transmitting surfaces are located between two of the walls and the bottom. This is all that is required by the claims. Regarding claim 4, the walls each define a plane and the surfaces of the walls include surfaces as seen in Fig. 3 that are normal to the plane. The ribs are normal to the plane. Regarding claims 5, and 6, see Fig. 9 where the surfaces on the bottom is seen as T-shaped. 114 is narrower than 115

and therefore the structure is T-shaped. Moreover, the opening in the walls for receiving 114 and 115 is seen as 117 and 116 is T-shaped.

Claims 1-4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Umiker (US 5,398,834). Regarding claim 1, as it is best understood, see Fig. 7 where the force transmitting surfaces is 16. The hinge is 12. The walls is 4 and 11 is part of the bottom. Regarding claim 2, see where some of the hinges are elevated with respect to the others as seen in Fig. 2. Regarding claim 3, see Fig. 2 where alternate walls are hinged to elevated surfaces. Regarding claim 4, see the ribs are normal to the vertical plane of the walls. Regarding claim 10, see Fig. 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umiker in view of Clark et al (US 6,131,757). Regarding claim 7, Umiker teaches a folding container with a locking mechanism between adjacent sidewalls for securing the walls in the raised position but does not teach the groove for receiving the band extending around the walls for retaining the walls in the raised position. Clark et al teaches this claimed structure as seen in Fig. 1 and 5. It would have been obvious to employ the band of Clark et al in the container of Umiker to provide an alternative way to hold the walls in the raised position. Regarding claim 8, the band is removable.

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Regarding claim 9, see Fig. 2 of Umiker where the walls have ribs adjacent the edges.

There will be notches in the ribs for the band.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromley in view of Clark et al (US 6,131,757). Regarding claim 7, Bromley teaches a folding container with a locking mechanism between adjacent sidewalls for securing the walls in the raised position but does not teach the groove for receiving the band extending around the walls for retaining the walls in the raised position. Clark et al teaches this claimed structure as seen in Fig. 1 and 5. It would have been obvious to employ the band of Clark et al in the container of Bromley to provide an alternative way to hold the walls in the raised position. Regarding claim 8, the band is removable. Regarding claim 9, see Fig. 3 of Bromley where the walls have ribs adjacent the edges. There will be notches in the ribs for the band.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromley in view of Meacham et al (US 5,711,444). Regarding claim 11, Bromley does not teach the hinge being a different material than the walls or the bottom. Meacham et al, as seen in Figs. 10 and 11, teaches joining to plastic members for folding with a plastic hinge that is made of a different material than the joined members. It would have been obvious to employ the separate and different material hinge of Meacham et al in the container of Bromley to provide a more flexible hinge. Regarding claim 12, the process steps do not require any structure that is not in the combination of references.

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Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umiker in view of Meacham et al (US 5,711,444). Regarding claim 11, Umiker does not teach the hinge being a different material than the walls or the bottom. Meacham et al, as seen in Figs. 10 and 11, teaches joining to plastic members for folding with a plastic hinge that is made of a different material than the joined members. It would have been obvious to employ the separate and different material hinge of Meacham et al in the container of Umiker to provide a more flexible hinge or to provide a longer lasting hinge. Regarding claim 12, the process steps do not require any structure that is not in the combination of references.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bromley in view of Baughan (US 3,327,921). Regarding claim 13, Bromley does not teach the third pair of opposed walls. Baughan as seen in Figs. 1-6, teaches a folding container with three pairs of opposed walls. It would have been obvious to employ the three pairs of walls of Baughan in the container of Bromley to provide an alternative shape.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Umiker in view of Baughan (US 3,327,921). Regarding claim 13, Umiker does not teach the third pair of opposed walls. Baughan as seen in Figs. 1-6, teaches a folding container with three pairs of opposed walls. It would have been obvious to employ the three pairs of walls of Baughan in the container of Umiker to provide an alternative shape.

Conclusion

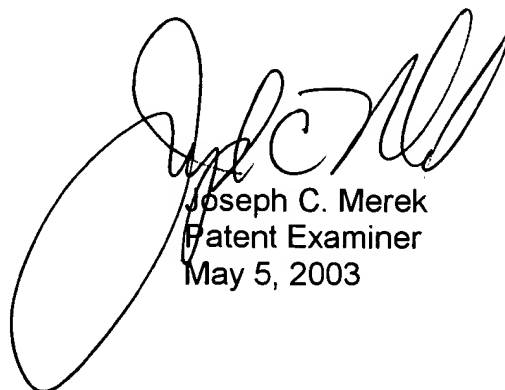
This action is a non-final action since previously objected to claims 5 and 6 are now rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson is cited for teaching force-transmitting surfaces 23 and 25 in Fig. 2. Glass and Erceg et al are both cited for teaching fused plastic hinges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merck whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merck
Patent Examiner
May 5, 2003